

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
[www.bpu.state.nj.us](http://www.bpu.state.nj.us)

TELECOMMUNICATIONS

|                                    |   |                            |
|------------------------------------|---|----------------------------|
| IN THE MATTER OF THE INVESTIGATION | ) | <u>ORDER TO SHOW CAUSE</u> |
| REGARDING LOCAL EXCHANGE           | ) |                            |
| COMPETITION FOR TELECOMMUNICATIONS | ) | DOCKET NO. TX95120631      |
| SERVICES                           | ) |                            |
|                                    |   |                            |
| IN THE MATTER OF THE BOARD'S       | ) |                            |
| INVESTIGATION REGARDING THE STATUS | ) | DOCKET NO. TX98010010      |
| OF LOCAL EXCHANGE COMPETITION IN   | ) |                            |
| NEW JERSEY                         | ) |                            |

(SERVICE LIST ATTACHED)

BY THE BOARD:

The Board of Public Utilities (Board), an agency within a principal department of the Executive Branch of the State Government with principal offices at Two Gateway Center, Newark, Essex County, New Jersey, by way of Order to Show Cause says:

1. The Board, pursuant to N.J.S.A. 48:2-13, has been granted general supervision and regulation of and jurisdiction and control over all public utilities, including individuals, co-partnerships, associations and corporations, that own, operate, manage or control telecommunications facilities that operate in New Jersey as well as their property, property rights, equipment, facilities and franchises.
2. The Board is vested with the authority, pursuant to N.J.S.A. 48:2-19, to investigate any matter involving any public utility, and pursuant to N.J.S.A. 48:2-40, to issue Orders to public utilities.

3. Respondent Verizon New Jersey Inc. (VNJ) is a public utility in the State of New Jersey, and a provider of telecommunications facilities subject to the jurisdiction of the Board, with an address of record at 540 Broad Street, Newark, New Jersey 07102.
4. In the course of the execution of its authority to regulate aspects of VNJ's services, the Board issued the following Orders to VNJ:
  - a. Board Order, In the Matter of the Investigation Regarding Local Exchange Competition for Telecommunications Services, Docket No. TX95120631 (October 22, 1998);
  - b. Board Order, In the Matter of the Investigation Regarding Local Exchange Competition for Telecommunications Services and In the Matter of the Board's Investigation Regarding the Status of Local Exchange Competition in New Jersey, Docket Nos. TX95120631 and TX98010010 (July 13, 2000);
  - c. Board Order Approving Revised Guidelines, In the Matter of the Investigation Regarding Local Exchange Competition for Telecommunications Services and In the Matter of the Board's Investigation Regarding the Status of Local Exchange Competition in New Jersey, Docket Nos. TX95120631 and TX98010010 (November 9, 2001);
  - d. Board Order Approving Incentive Plan, In the Matter of the Investigation Regarding Local Exchange Competition for Telecommunications Services and In the Matter of the Board's Investigation Regarding the Status of Local Exchange Competition in New Jersey, Docket Nos. TX95120631 and TX98010010 (January 10, 2002);
  - e. Board Order Approving Modifications to the Revised Guidelines and the Incentive Plan, In the Matter of the Investigation Regarding Local Exchange Competition for Telecommunications Services and In the Matter of the Board's Investigation Regarding the Status of Local Exchange Competition in New Jersey, Docket Nos. TX95120631 and TX98010010 (March 28, 2002);
  - f. Board Order Denying Stay, In the Matter of the Investigation Regarding Local Exchange Competition for Telecommunications Services and In the Matter of the Board's Investigation Regarding the Status of Local Exchange Competition in New Jersey, Docket Nos. TX95120631 and TX98010010 (December 3, 2002).
5. Pursuant to the Orders referenced in 4b through 4f above, VNJ is required to provide monthly performance reports setting forth the measured results for each metric in the Carrier to Carrier Guidelines, Performance Standards and Reports.
6. Pursuant to the Board's January 10, 2002 and March 28, 2002 Orders approving the Incentive Plan and its revisions, VNJ is subject to the following Incentive Plan requirements:
  - a. late performance reports – submit \$5,000 to a State fund for each twenty-four (24) hour period, or part thereof, past the due date for delivery of the reports and data;

- b. incomplete or revised reports and/or reports found to require revision – submit \$1,000 to a State fund for every twenty-four (24) hour period, or part thereof, that the report remains incomplete and/or inaccurate; and
  - c. requirement to revise and re-file the required performance reports in a timely fashion, and submit to a State fund:
    - i. for reports refiled in 181-270 days, a multiplier of 2x the \$1,000 per calendar day incentive;
    - ii. for reports refiled in 271-360 days, a multiplier of 3x the \$1,000 per calendar day incentive; and
    - iii. for reports refiled after 360 calendar days, a multiplier of 5x the \$1,000 per calendar day incentive.
- 7. It appears that each monthly performance report filed by VNJ from November 2001 through December 2002 has required revision. As a result, and pursuant to the Board's January 10, 2002 and March 28, 2002 Orders, VNJ is required to make incentive payments to the State fund, which payments have not been made as of the date of this Order.
- 8. On September 27, 2002, the Board's Director of the Division of Telecommunications (Director) sent a letter via facsimile and regular mail to VNJ's President, Dennis Bone, and Vice President and General Counsel, Bruce Cohen, notifying VNJ that its required performance reports for November and December 2001 and January and February 2002, had not been re-filed with the Board. The letter also stated that pursuant to the Board's January 10, 2002 and March 28, 2002 Orders, VNJ was required to submit incentive payments totaling \$924,000 to the Board by the close of business on September 30, 2002. In addition, the letter advised VNJ that pursuant to the Board's January 10, 2002 and March 28, 2002 Orders, commencing on October 1, 2002, the performance reports would be subject to a multiplier of 2x the \$1,000.00 per calendar day incentive from the original filing date of the monthly report, pursuant to the Board's January 10, 2002 and March 28, 2002 Orders.
- 9. On September 27, 2002, VNJ served the Board with copies of VNJ's Notice of Appeal from the Board's March 28, 2002 Order and related documents filed with the Appellate Division of the Superior Court of New Jersey. The documents included a Notice of Motion for Stay on an emergent basis of any enforcement action by the Board based on the Director's letter dated September 27, 2002.
- 10. By Order dated December 3, 2002, the Board denied VNJ's application for a stay.
- 11. On December 12, 2002, VNJ re-filed its application for emergent relief and a stay with the Appellate Division.
- 13. On December 13, 2002, the Appellate Division issued an Order denying VNJ's motion for emergent relief and directed VNJ to move for the relief requested pursuant to procedures set forth in R. 2:8-1 with said motion to be filed no later than December 20, 2002. A temporary

stay was entered by the Appellate Division until such time as a decision on VNJ's motion could be rendered.

14. By Order filed on January 27, 2003, the Appellate Division denied VNJ's motion and vacated the temporary stay.
15. It appears that VNJ has failed to comply with the Board's January 10, 2002 and March 28, 2002 Orders, and is, therefore, as of February 5, 2003, in violation of said Orders resulting in incentive payments owed to the State fund in the amount of \$9,349,000. This amount, which continues to accrue on a daily basis, was calculated from the original filing date in the following manner:
  - i. November 2001 Performance Report due December 26, 2001  
(406 days x \$5,000 per day = \$2,030,000)
  - ii. December 2001 Performance Report due January 25, 2002  
(376 days x \$5,000 per day = \$1,880,000)
  - iii. January 2002 Performance Report due February 25, 2002  
(345 days x \$3,000 per day = \$1,035,000)
  - iv. February 2002 Performance Report due March 25, 2002  
(317 days x \$3,000 per day = \$951,000)
  - v. March 2002 Performance Report due April 25, 2002  
((286 days x \$3,000 per day) + (180 days x \$1,000 per day)\* = \$1,038,000)
  - vi. April 2002 Performance Report due May 27, 2002  
((256 days x \$2,000 per day) + (180 days x \$1,000 per day)\* = \$692,000)
  - vii. May 2002 Performance Report due June 25, 2002  
((225 days x \$2,000 per day) + (180 days x \$1,000 per day)\* = \$630,000)
  - viii. June 2002 Performance Report due July 25, 2002  
((195 days x \$2,000 per day) + (180 days x \$1,000 per day)\* = \$570,000)

- ix. July 2002 Performance Report due August 26, 2002  
(163 days x \$1,000 per day = \$163,000)
- x. August 2002 Performance Report due September 25, 2002  
(133 days x \$1,000 per day = \$133,000)
- xi. September 2002 Performance Report due October 25, 2002  
(103 days x \$1,000 per day = \$103,000)
- xii. October 2002 Performance Report due November 25, 2002  
(72 days x \$1,000 per day = \$72,000)
- xiii. November 2002 Performance Report due December 26, 2002  
(42 days x \$1,000 per day = \$42,000)
- xiv. December 2002 Performance Report due January 27, 2003  
(10 days x \$1,000 per day = \$10,000)

\* - VNJ has re-filed these reports 180 days after their initial filing yet the reports remain incorrect and are subject to re-filing.

The Board HEREBY ORDERS:

1. VNJ to show cause before the Board why the Board should not find that VNJ failed to make required Incentive Plan payments and failed to file the required revised reports pursuant to the Board's January 10, 2002 and March 28, 2002 Orders.
2. VNJ to show cause before the Board why the Board should not order that VNJ make the required Incentive Plan payments and why the Board should not order VNJ to re-file the required corrected reports for each month identified in paragraph 15 above.
3. VNJ to show cause before the Board why the Board should not impose penalties upon VNJ pursuant to N.J.S.A. 48:2-42 for violations of previous Board Orders.
4. VNJ to file an Answer to this Order to Show Cause and any and all documents or other written evidence upon which VNJ relies in responding to the within Order to Show Cause within

twenty (20) days of service of this Order. VNJ's Answer shall be submitted to Kristi Izzo, Secretary of the Board, with a copy to Elise Goldblat, Deputy Attorney General, 124 Halsey Street, P.O. Box 45029, Newark, New Jersey 07101.

The Board HEREBY DIRECTS that a certified copy of this Order be served upon VNJ pursuant to N.J.S.A. 48:2-40.

DATED: 2/5/03

BOARD OF PUBLIC UTILITIES  
BY:

Jeanne M. Fox

\_\_\_\_\_  
JEANNE M. FOX  
PRESIDENT

Frederick F. Butler

\_\_\_\_\_  
FREDERICK F. BUTLER  
COMMISSIONER

Carol J. Murphy

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CAROL J. MURPHY  
COMMISSIONER

Connie O. Hughes

\_\_\_\_\_  
CONNIE O. HUGHES  
COMMISSIONER

Jack Alter

\_\_\_\_\_  
JACK ALTER  
COMMISSIONER

ATTEST:

Kristi Izzo

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KRISTI IZZO  
SECRETARY